# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| In re U.S. Patent Application of Alvin Wong | ) **EXPEDITED PROCEDURE**<br>) **AFTER FINAL PER MPEP 714.13**<br>) |
| Application No. 10/071,802 | ) Examiner: Stimpak, Johnna<br>) |
| Filed: Febraury 6, 2002 | ) Group Art Unit: 3623<br>) |
| For:  SUPPLIER PERFORMANCE<br>       REPORTING | ) Attorney Docket:  005222.00343<br>) |

## REQUEST FOR RECONSIDERATION AFTER FINAL OFFICE ACTION

**Mail Stop AF**
United States Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Dear Sir:

In response to the final Office Action mailed November 5, 2004, reconsideration and allowance are respectfully requested in view of the following remarks.

Claims 1-47 remain pending, of which claims 1-31 and 47 are before the Examiner for review and claims 32-46 are withdrawn.

Claims 1-8, 24-31, and 47 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,960,408 to Martin et al. ("Martin"). Claims 9-23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Martin. Applicant traverses all rejections.

*Order vs. Order Fulfillment*

The main issue over which Applicant and the Examiner have differed are whether a customer order entry in Martin can be considered a start point corresponding to a point along an order fulfillment process (as recited, e.g., in claim 1). The Office Action asserts that the order must be part of its fulfillment, for if there were no order placement, there would be no order fulfillment to take place. Respectfully, this argument relies on a non sequitur. It is analogous to arguing that a cause must be part of its effect, for if there were no cause, there would be no effect. Or, that a question must be part of its answer, for if there were no question, no answer would be offered. These assertions are based, of course, on faulty logic. Likewise, the fact that

fulfillment of an order can be expected to follow after the order is placed does not logically mean that the order is part of the fulfillment of the order. Moreover, if the order were considered part of order fulfillment, this logically raises the question: what exactly is the order fulfilling? The placement of the order itself simply cannot logically be part of the fulfillment of that order; one follows the other but they are not the same.

*Independent Claim 1*

Claim 1 is directed to a method for reporting supplier on time performance. The claimed method includes generating on time performance reports including a number of orders delivered on time by a first supplier with respect to each of a plurality of start point/end point pairs. Claim 1 further requires that the start point corresponds to a first point along an order fulfillment process and the end point corresponds to a second point along the order fulfillment process.

As mentioned previously, the placement of a customer order in Martin cannot be considered a start point corresponding to a point along an order fulfillment process as claimed. It is therefore submitted that Martin fails to teach or suggest this claimed feature.

The Office Action also alleges that Applicant's previous response relied on features disclosed in the specification but not recited in the claims. However the examples discussed in Applicant's response were simply that – examples of embodiments consistent with claim 1. Claim 1 clearly includes the recitation discussed above and in Applicant's previous response, and so the concern expressed in the Office Action is not understood.

The Office Action further argues that the above-mentioned recitation is not limiting because it is not functionally involved in the recited steps and does not alter the recited structural elements; the recited method steps would be performed the same regardless of the specific data. Applicant respectfully disagrees. Depending upon the particular embodiment consistent with the claim, the recited step of generating may utilize different calculations and decisions depending upon which start and end points are used. The Office Action refers to "descriptive material," presumably alleging that the start/end points are represented by merely descriptive material such as computer data. However, the information about the start/end points can affect not only how the generating step is implemented, but also the final functional result. It is therefore submitted that this feature of claim 1 should not be ignored.

For at least the above reasons, it is submitted that claim 1 is allowable over Martin.